

PESTICIDE CONTROL BOARD

ADMINISTRATIVE PROCEDURE FOR PROCESSING VIOLATIONS FOR CIVIL PENALTY ASSESSMENT AND ACTIONS ON CERTIFICATES, LICENSES, AND REGISTRATIONS

Decision-Maker	Activity	Time-Frame
Enforcement Supervisor	Review reports and sample analyses pertaining to investigations, inspections, observations, and monitorings to insure that the information for each record is complete, clearly written and the findings well-documented; if the record lacks information, contact the investigator to determine if missing information can be added to the file – determine if a <u>possible</u> violation of Pesticide Control Act or supporting regulations occurred.	Within 5 work days of receipt of report from field investigator
Enforcement Supervisor	<p>For a routine inspection, if no violation is found, close record and update Enforcement Case Review & Actions database.</p> <p>For a complaint investigation, if no violation is found, close record and update Enforcement Case Review & Actions database. Forward to Compliance Manager.</p> <p>If possible violation occurred, update Enforcement Case Review & Actions database and forward record to Compliance Manager.</p>	Within 2 work days following review
Compliance Manager	<p>Review each record forwarded by the Enforcement Supervisor to determine whether or not violation(s) of the Pesticide Control Act or supporting regulations are documented in the report of findings and supported by the samples submitted by the Investigator; if information is missing, contact the investigator to determine if missing information can be added to the record.</p> <p>For a complaint investigation in which no violation was found, notify complainant of findings.</p> <p>For all other cases, prepare Record of Case Review and Regulatory Action Initiated.</p> <p>If conditions do not warrant regulatory action, close case and update Enforcement Case Review & Actions database</p> <p>If violative conditions do not warrant a civil penalty, send a Letter of Caution to respondent; copy to Investigator; and update Enforcement Case Review & Actions database.</p>	<p>Cases are reviewed in order of receipt</p> <p>Within 3 work days of completion of case review</p>

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Decision-Maker	Activity	Time-Frame
Compliance Manager (cont'd)	<p>If violation warrants a Civil Penalty, prepare a Rationale for Penalty Assessment, and a Notice of Violation.</p> <p>If Civil Penalty is \$2,500 or less, mail to respondent along with payment statement and notification that the assessment can be appealed in a fact-finding conference authorized by § 2.2-4019 of the Code of Virginia (the Code); and update Enforcement Case Review & Actions database.</p> <p>If Civil Penalty is greater than \$2,500, forward to Program Manager for review and approval.</p> <p>If denial, suspension, revocation, or modification of a license, certificate, or registration is involved alone or in conjunction with a civil penalty, forward to Program Manager for review and approval.</p> <p>At the discretion of the Compliance Manager, the civil penalty assessment may be prepared in the form of a Consent Agreement.</p>	<p>Cases are reviewed in order of receipt</p> <p>Within 3 work days of completion of case review</p>
Program Manager	<p>If Civil Penalty greater than \$2,500 is approved, return to Compliance Manager for mailing to respondent.</p> <p>If Civil Penalty greater than \$2,500 is NOT approved, return to Compliance Manager for reassessment of penalty.</p> <p>If denial, suspension, revocation, or modification of a license, certificate, or registration is involved alone or in conjunction with a civil penalty is approved, return to Compliance Manager for mailing to respondent.</p> <p>If denial, suspension, revocation, or modification of a license, certificate, or registration is involved alone or in conjunction with a civil penalty is NOT approved, return to Compliance Manager for reassessment.</p>	<p>Within 5 work days of completion of case review</p>

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Decision-Maker	Activity	Time-Frame
Conference Officer appointed by Commissioner (cont'd)	Conference Officer shall transmit to the Board any civil penalty adjustment greater than 25% of the original penalty, and any adjustment greater than \$500; the Board shall review the decision and approve or deny the penalty adjustment.	At the next Board meeting
Compliance Manager	Notify the respondent of the Board's decision in writing; update Enforcement Case Review & Actions database.	Within 10 work days of considering case
Commissioner	Upon written request for an Adjudicative Conference , request Program Manager to arrange for Conference Officer.	Within 5 work days of receipt of request
Program Manager	If an Adjudicative Conference is requested by respondent within 15 days after receiving decision of Fact-Finding Conference Officer, arrange for Conference Officer, arrange location of Adjudicative Conference ; notify Investigator; update Enforcement Case Review & Actions database.	Within 5 work days after notification by Commissioner
Conference Officer	Hold Adjudicative Conference as requested to hear relevant information concerning the case. Officer shall consider all facts concerning a civil penalty, then transmit findings and recommendation to the Board. Inform respondent that the Board will hear final oral arguments (15 minutes maximum unless a longer period, not to exceed 30 minutes, is requested in writing) only upon written request to the Board within 15 days after Adjudicative Conference .	Within 45 days of appointment by Commissioner Within 30 work days of conference date Within 10 work days of conference date
Commissioner	Upon written request for a Formal Hearing , request Program Manager to arrange for a Hearing Officer	Within 5 work days of receipt of request
Program Manager	If Formal Hearing is requested by the respondent within 15 days after receiving decision of Fact-Finding Conference Officer, arrange for a Court-appointed attorney to act as Hearing Officer; arrange location of Formal Hearing ; notify investigator; update Enforcement Case Review & Actions database.	Within 5 work days after notification by Commissioner

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Decision-Maker	Activity	Time-Frame
Hearing Officer	Hold Formal Hearing as requested to hear relevant information about case.	Within 60 days of receipt of request for hearing
	Hearing Officer shall consider the facts concerning the denial, suspension, revocation, or modification of a license, certificate, or registration, along with any associated civil penalty, and the facts of related violations presented as part of the same case; transmit findings and recommendations to the Board.	Within 45 work days of the hearing date
	Inform the respondent that the Board will hear final oral arguments (15 minutes maximum unless a longer period, not to exceed 30 minutes, is requested in writing) only upon written request to the Board within 15 days after Formal Hearing .	Within 10 work days of hearing date
Pesticide Control Board	Consider recommendations from Adjudicative Conference or Formal Hearing ; Board may hear final arguments from VDACS and respondent before rendering decision. Respondent must petition the Board to present oral arguments (15 minutes maximum unless a longer period, not to exceed 30 minutes, is requested in writing).	At the next Board meeting after receipt of findings and recommendations
	Board shall render decision concerning a civil penalty and the status of a license, certificate, or registration; notify the respondent of decision in writing; inform respondent that decision can be appealed to circuit court for judicial review; send copy of transcript and decision to the Office of Pesticide Services.	Within 10 work days of considering case
Compliance Manager	Update Enforcement Case Review & Actions database.	Within 10 work days of considering case

Approved by Board July 16, 2003